Clear Lake Public Hearing
December 18, 2008

Sherman Lundy: I'm Sherman Lundy I'm with BMC Aggregates and we are in the aggregate business, I'm going to present those to you for some other kinds of comments. Just briefly the concerns that we have a lot of them already mentioned obviously we are in the process in the aggregate business, our only contact with this is through our NPDES in terms of discharging water from quarries literally and that water is literally groundwater that's infiltrated in through natural surface water or natural waters of Iowa, our rainwater that falls so we have some concern because of these impacts, we're not adding anything, we're not processing this water. So we feel that there ought to be some kind of recognition of what goes on when you open up a quarry, you're literally not doing anymore than removing that water from an existing source or groundwater also that you can provide a product. Some of the concerns that I have and I'll just briefly run through those in the interest of time and weather, first of all, when you talk about antidegredation concerns and you list the Tier concept, did you take a look at the Tier concept that's been proposed that 61.2 that I recall anyway, 67.12 and then if we looked at 567.61.3 you have as you pointed out this other category of criteria for striving streams. So one of the concerns that we have is that how do we know which kind of criteria you're talking about, you've got Tier 1 over here, where you list some loose subjective criteria, then you've got the criteria that's described in 61.3. Frankly, there's no correlation there whatsoever and it would seem to me that it would be in the best interests for everybody here to see some kind of similar correlation because you've got essentially two ways to categorize streams. How do we know which ones to deal with? You've got warm water, cold water, which is fairly scientifically oriented, but then if you look at this Tier classification, that's pretty subjective, we have a difficult time at least I do in our industry, having a difficult time of subjective and it almost borders on I guess what I would consider non-scientific information. And I feel that is a great concern, you need to correlate those so you have a little more of a scientific approach for this. The other thing that you talked about in the Tiers scenario, is that you talked about water quality standards. Well the only water quality standards that are established are the water quality standards Iowa's Water Quality Standards just reviewed this stuff in 61.3, and the 61.3 category is the warm water cold water standards or classifications. So in effect, the Tier categorization is vague when it talks about water quality standards because there is no water quality standards associated with that, the only water quality standards are associated with 61.3 where you have the warm water cold water designations, I don't know if you're familiar with them. Those are clearly defined and it seems to me that once you defined those that if you're dealing with those kind of standards already listed already on the books. The next thing that I guess a concern that I have and reviewing this, how are those water quality standards measured? The water quality standards aren't measured in concentrations, and those are parts per million, parts per thousand, parts per billion, the colonies per hundred milliliters of e-coli or whatever else. And then I noticed in this Tier proposal that you kicked mass loading. Mass loading is a highly impractical way to deal with this concept because if I have water quality standards listed in 61.3 and they're defined in terms of concentrations then and you talked about that and you referred to that as Iowa's water quality standards then the mass loading idea's not part of that at all at this present time. And in fact the concept of mass loading is highly impractical for what it's worth because you're almost talking about distilled water when you talk about a specific thing, for example zinc, you're going to have zero mass loading. Now in terms of that how close does that mass

loading get to the concept of distilled water? It's almost an impossibility. It seems to me that it would be highly practical to lay off the concept of mass loading and deal with the concept of concentrations. If we're talking about the concept of concentrations for an example of zinc we have so many parts per million of zinc that are there than it seems to me that would be an adequate way to address water quality or surface water or fish habitat or drinking water or however else you're going to look at it. Those standards already exist, they're in concentrations and they work. Now as part of that concept in concentrations if you're dealing with TMDL's or MCL's how are they given? Are they in parts per million? Parts per billion? Or whatever? So those things are adequate, they're successful in protecting the water. I think you need to go back and maybe revise this because I can see some frustrations with this thing how do we know how to correlate all this? You've got subjective versus a scientific level in terms of the concept of water quality. And the final thing is, with this and the concept that you have in this one and the other stuff I've given you is just some research information but the idea that if you have Iowa waters here, we have groundwater and if you have cooling water, you pump water out of the ground to cool something and you discharge that water, all you're doing is returning surface water, if we in the aggregate industry pump as you pointed out, we pump water out of the quarry and it's three parts per million nitrates, naturally occurring. We pump it into a stream that's six parts per million in terms of its current load that exists in that stream. The dilution factor is much more a way of addressing the concern of water quality because you know for so many years both EPA and DNR and other organizations I've been at this for about thirty or forty years so I am old okay? And I can tell you beyond a shadow of a doubt that we dealt with the concept of dilution as one of the best answers or one of the best solutions to the problem. So therefore if you're discharging waters that are quality than the waters you're discharging them into, then that shouldn't be an issue. And it would seem to me that you could eliminate a lot of problems and a lot of potential confrontations along the industries by going back and putting our what I guess I would call some common sense approach into this proposal. Take it back to the drawing board, let's get a classification scheme set up that in terms of tiers, let's deal with that in terms of the classes you already have instead of having two sets of standards. How do we know? And then to look at concentration as an accurate measure, you can deal with that satisfactorily and lay off the concept of mass loading. In a court of law you'd be hard to pressed to deal even with microscopic or extreme percentages of mass loading in terms of stuff even in terms of distilled water. And to deal with these things as and approval for discharging waters of Iowa back in again without penalizing the organizations that are trying to provide a product. Those are my comments.

Tom Green: My name is Tom Green, I'm the president of the Allied Construction Company and Green Limestone Company out at Charles City and the past president of the Iowa Limestone Producers Association. I just have a few comments here regarding the potential antidegredation policy rules and how it can affect the severe and wide ranging impact on Iowa's communities and businesses. With regards to the construction materials used in our infrastructure projects from highways to streams to airports to county rock road surfacing to water treatment plants and anything that uses limestone, sand and gravel. The State of Iowa just the state of Iowa uses about sixty million tons of limestone aggregate and sand and gravel each year. If due to some of these stringent rules, half the sixty million tons has to be hauled an additional twenty miles because we're violating some of these rules and you had to haul it an additional twenty miles, this would cost the owner of the projects an additional hundred and thirty-two million dollars

which equates in the infrastructure funding world to about fifty-three hundred jobs. Using the number of forty thousand jobs per one billion dollars spent in our infrastructure. The snowball effect of this job loss is gigantic and I just think there needs to be much, much more study done on just what the impact these rules will have for the benefit that's gonna be gained. Thank you for your time and listening to my comments.

Jim Hyde: Basically Tom basically said everything I was going to say. We represent the county, we are concerned about closing port. I use Mitchell county as an example, we haul about a hundred thousand ton of aggregate every year when fuel was very high midsummer, that increased about thirty-five cents a ton mile for us so every mile we have to haul that hundred thousand ton, one more mile cost taxpayers thirty-five thousand dollars. So if we start closing a bunch of quarries, tax-payers are going to be hit real hard.

Lindsey Falk: My name is Lindsey Falk, I'm the owner of Falk construction company. And I am more confused about which I'm mostly talking about 2.5 but 2 as well I kind of skip around here a little bit. Well I want to thank you for having these public meetings, I think it's really important that people do this and to let us speak on behalf of protecting Iowa's waters. I personally have double interest in this discussion, one of these forty-six waters, Turtle Creek runs about two hundred yards from my house, I grew up about a hundred yards from it, my father and I fished on it when I was little, spent countless hours playing in it and now I take my children down there for recreation. On the other end of the three point four mile stretch is our family's rock quarry which we've been operating for forty years and that quarry has several ponds used by various types of wildlife, it's split into two different areas, the south area was mined years ago, back filled with water. This pond, a lot of our employees and friends fish, our high school class comes out here to ice fish and that's the actual lot we discharge into Turtle Creek. It's kind of a little ironic I guess, I got the newspaper article in our country press news a couple of weeks ago, I didn't know if what I have plenty if anybody wants a copy of this article, but basically Turtle Creek is one of them that has been nominated or proposed or whatever, forty-six and this whole article is basically from the conservation board, the DNR people saying that the water quality is improving, the trout are thriving, they've been doing a couple years study with Milt, I don't know if you know Milt or all, he's going to get back to me too with some other information they're been doing a two and a half year study, but basically in this creek, that we've been pumping into for forty years, never, if it never has a chance to go through this public hearing and just gets all of a sudden dedicated as a 2.5 in a few years our quarry is going to move across the road, if this goes into effect it probably won't, and that's one of the big quarries in Mitchell County that Jim was talking about. We have seventy employees and if that's half of our production you can imagine what's going to happen and you can't just move a quarry, you've got to go where the rock is, everybody's aware of that. We've been having these water standards for years and all of our quarries except for a select few, sit below the water in the stream level and we pump water out to get to our natural resource which is the stone and sand. We collect millions of gallons of non-point discharge full of pollutants from the non-point and we take them and actually clean them out, filter them naturally, put them through sediment ponds and discharge them into Turtle Creek. So one of my concerns is that is we're not creating these pollutants, we're just a transfer point if that quarry wasn't there, those pollutants would go in anyway, I think that we're all aware that the non-points source isn't what we're talking about, but that's definitely what the issue is. I think the number I saw was nine percent possibly of all

the discharge is from point source. And we're already regulated the 91% that is non-point is the one that really we should be concerned about. I agree with Sherman, the mass loading although easier to regulate which to me is the only reason to have mass loading is that it's easier possibly to regulate. After hearing Sherman talking it probably even isn't. It doesn't in my mind make scientific sense either. There should be a focus on concentration if not allowed to add cleaner water to these streams is that really a benefit or are we reducing part of their betterment? My biggest disagreement with the forty-six designated waters is how and why if it wasn't in there from the DNR, the council has any right to put these through without going through the nomination process. I think its, it would be a travesty if Turtle Creek was put in here when everybody that really uses Turtle Creek will probably argue opposite that maybe it doesn't, maybe it is an outstanding water but it's already had the discharge and economically it will be a burden for us, but a lot more for the Iowa taxpayers. I don't completely understand what turn of assessment I until today thought it was on the 2.5 as well and that opened my eyes a little bit but I think for the quarry industry there really isn't an alternative and to spend a lot of time and money to find alternative just so they can say well you don't have an alternative, I think maybe there's a possibility that the quarry should be exempt or have a set quality of concentration that we have to meet, rather than spend a lot of time and money trying to prove that we're not a prime which we already know that we're not. Thank you.

Stan Walk: Yeah, Stan Walk here, Mitchell County Supervisor, your weather worries according to the radio this afternoon it won't start to come until ten tonight, so we got plenty of time to talk. Thank you for allowing me to address this hearing, Mitchell County, Iowa is strongly opposed to this antidegredation proposal as it does not cause of pollution in the designation distressed streams. Let the record show that Mitchell County Iowa is not opposed to clean water, and an improved environment. Clean water and clean air are vital to the health and welfare of the citizens of Mitchell County. After studying this antidegredation proposal, Mitchell County believe this proposal does not address the sources of water pollution fully in the main designated streams. Instead this proposal has chosen new point sources of water as an easy scapegoat. Thus allowing old polluters to continue business as usual while severely causing financial hardships to existing businesses and preventing some new manufacturing from locating in Iowa. Counties like Mitchell County desperately need some growth to help our schools to help whatever and we really can't afford to have a lot of roadblocks put up for us. Especially if they're not necessary. Even more importantly, looking at the floods of 2008, some of this high water could have been prevented by controlling small watersheds, by utilizing the secondary roads system and smaller road culverts. There is no reason for places like Cedar Rapids to have the flooding they do if the standards from the Iowa DOT would be such that we could hold back some of that water for twenty-four hours. Farm ground is not going to get hurt if it's under water for twenty-four hours. We have all kinds of sources of this sort that instead of allowing this water to run so fast and accumulate so fast, we could really do a very good job of helping to hold down floods. Nobody's really addressing it, they think…they're scared of the Farm Bureau for whatever reason and I think you're making a mistake. This type of proposal will receive little or no serous consideration but it should now in Des Moines. If Iowa's serious about cleaning up our waters, a totally new proposal is needed I feel and all pertinent players necessitate a seat at the table and discussing this eventual proposal. Thank you for your time.

Penney Morse: I'm also Mitchell County resident, I'm just a resident with some other concerned residents about the water quality. I looked up on a map on the DNR website this morning and there's currently eight bodies of water in Mitchell County that are on the DNR List of Impaired Water Bodies. Burrell Creek, Cedar River, Deer Creek, Otter Creek, Rock Creek, Spring Creek, Turtle Creek, Wapsipinicon River, and I think also the Little Cedar River. They're all in need of a TMDL, the total maximum daily load plans, there's residents of Mitchell County that are ready to work with the DNR on the watershed improvement. As far as I'm concerned, the elephant in the room that we're not talking about is this antidegredation only applies to any entity that has to have an NPDES permit. Now the City of Carpenter , the little community of Carpenter, don't they need one for their sewer plant they're building there? Little towns need them but in Mitchell County we're kind of in the red zone as far as hog confinements, and there's no hog confinement in our county that needs one, or in the state. Only a thousand head of cattle in a feedlot, they're the only ones that would need to get an NPDES permit and of course there aren't any that size in Mitchell County, so there's no agricultural entity that needs to have a permit, so they're not covered by this. The dead zone in the Gulf of Mexico, it continues to grow, Iowa along with the other states bordering the Mississippi River must develop effective nutrient reduction strategies, the streams in Mitchell County are part of the Mississippi River Watershed. Rural residents of Mitchell County have noted increased application of liquid manure from the increasing number of hog confinements in our county. They have noted multiple applications in the same field, right before a heavy rainfall, many of the fields where liquid manure is being injected into the soil are tiled and it's the streams or the impaired water, or is on the impaired water list is running through them. Until the DNR has done a TMDL for these streams, we cannot begin to address the degredation of these water bodies. Added this year was Turtle Creek and the Little Cedar River. With the TMDL in place and required load reductions calculated, all contributing parties on the watershed will know exactly what is expected of them and proper time monitoring and reporting requirements will be in place to ensure that the impairment will be corrected. In the last century many of the farmers in Mitchell County drilled agricultural drainage wells, they tiled their fields to these wells, much of Mitchell County was a wetland, eventually the residents of Iowa realized their well water was polluted with agricultural runoff. Though this problem was recognized much earlier, it wasn't until 2001 that all agricultural drainage wells had to be capped. I don't know if aquatic life in the Gulf of Mexico can wait fifty years for the Iowa DNR and other agricultural states to address pollution created by current farming practices, there should be an immediate moratorium on new or increased sources of pollution in the watersheds in Mitchell County on the list of impaired waters. In particular I'm talking about new applications for hog confinements, there also needs to be better oversight of manure management plans to ensure the same field isn't listed in two plans and over application of manure isn't occurring. Drainage tiles should be monitored after application of manure. There are a group of residents in Mitchell County ready to work with the DNR to improve water quality in our county. I also, in my own investigation of manure management plans I've noticed some fields listed in as many as three different plans. Now I don't, maybe they're from different years, I don't know if anybody at the DNR is looking at the manure management plans to see are they listed in more than…by one facility in particular Iowa Select facilities tend to do that, they got a field that will just use a problem when they have manure in those lagoons they gotta pump out they just gotta get rid of it. This fall we had a wet fall so people were really in a hurry to get that stuff pumped out and it got pumped out and then it rained and it rained and it rained. And I don't think Faulk is contributing to the pollution of

Turtle Creek. I don't think Faulk is the reason Turtle Creek got added to the list of impaired waters. I think the reason more streams are being added to the list of Impaired Waters is that we've got more and more of this liquid manure being injected into tiled fields which drain into the streams which drain into the Mississippi River. Thank you.

Veronica Laek: This is what the neighbors built through my field in 2005, this here land here is showing the one thousand foot area that they dug out here, and I know it's down to which is another, about two thousand nine hundred in total and the only waterway I had on my farm before this was dug, was this little fifteen foot wide area across here that was a wetland. And that was under my Corps of Engineers agreement in 1995, I wasn't supposed to allow more than ten acres of drainage to it. And I think that Corp agreement is still there. Well the neighbors build this three hundred and twenty foot some wide flood channel across what used to be Dean Clatner's land when he still owned it. They started that work and did that work when William Brandout had a bid on it, but he then hired Mayor Digging to do that. I was advised by the DNR, I must have, David Allen from Des Moines came out to inspect the damages of that floodwater that came through, I had to sue him in civil court because you have no enforcement on this. Any how, so I went to court in 2007 and nobody could see what had happened, they saw all the drainage improvements I had done, all the conservation work, they saw it was grassed down and CRP, this whole area is CRP now with no channel because it used to be always two hundred and two bushels of acre corn. And now all that dirt that is there is hauled in from Faulk construction and Allied and that is used to…mainly Faulk to resurface the ripped up limestone and also some topsoil to build grass. And the government cautioned that in 2004, and then this work they did in this photo is 2005. It came through again and took more of this area worked around the green area is where they used scrapers to take more soil to build up the banks across tier and different areas that they're building further waterways to deliver more water. And Jim Erbatch which was quoted by Melvin or Marvin who came down here, saying they just needed more dirt, and so they think they have the right to come on my farm and take more soil and that opened a sinkhole at the box culvert here that I had to pay twenty thousand to close and this year's flooding reopened it. I have another conservation repair which was resealing that sinkhole, that little box culvert never was damaged in the 1999 flood when we had twenty-two and a half inches of rain in five days. 2008 we had maybe five to six and it ripped open that sinkhole again. That little box culvert and the box culvert over here at Brad Johnson's, they're only sixty square foot of flow area, that channel is nine hundred cross sectional flow area, they bring it across the top of the road, all the gravel is taken off the road and yeah it does cost to haul rock and it costs to haul dirt, and I don't think the quarries should have to be moved or changed, they aren't hurting the water, like stuff like this does. This is bringing this land over here, is like here it shows the hugest sinkholes you ever saw, well there's a sinkhole right here that they used to always drain this land here down this sinkhole and now they've build waterways through it to the other sinkhole that they channel the ditches between these two feedlots to. We're just fueling the nitrates down and that's manure nitrates, and it's also the anti-disammonia that they put on when Brad Johnson bought the land north of his dad's this was all wetland and he drained it down that sinkhole north of his dad's place. Well then he puts corn on corn and anti-disammonia on again and again, and that land then polluted our aquifer and it goes down here to the Ian Presbyterian Church all the wells between here have had to be redrilled in the last few years. In 2004 there was five, Ian Presbyterian Church in 2006, this year Goswell in 2008, then I don't know how many others. Well the DNR informed me six months after my husband was dead that there was

no way to remediate my well other than…because of the high nitrate contaminants other than to drill a new one. But they sent along Brad Johnson's well drilling record in 1993 where it was drilled by the government for a high…the reason his dead pigs and cattle were on his driveways in 1993 was because the nitrates were so high in his well, the government paid in the program to prevent high animal loss numbers from nitrate contaminants, they drilled his well. They didn't tell us, everybody downstream has to deal with it by themselves. There isn't any policy for testing wells in this plume from Brad Johnson's well. All those nitrates go down into that aquifer and now Floyd County has got to deal with it. We don't here in Mitchell County we don't agree with town people downstream, in the aquifers, we need to. I know it costs to haul dirt and the dirt doesn't cost so much per ton, but the shipment and the trucking of it does and I don't think I'm a grandma Mr. Faulk when you said that about the non-point source of pollution, that's what sinkholes do, but it's more of a concern than the regular water on top.

Rick Schwark: My name is Rick Schwark, my family has been involved in the development of about 12% of all the ethanol in the state of Iowa, at one form or another. One of my concerns is we make about three billion gallons of ethanol in the state of Iowa currently, we have the artifice in place which requires thirty six billion gallons you know at a future point in time. Fifteen billion gallons of that comes from corn based ethanol. Twenty one billon gallons is to come from cellulosic ethanol. That cellulosic ethanol, Iowa's share of that should be between five to seven billion gallons. That's about ten billion dollars of economic activity. So we need to be thinking about how these are going to apply not just to the existing ethanol plants that are operating in the state of Iowa, but you know the tripling of the current capacity that's going to be created by the coming cellulosic ethanol. So a lot of these streams that are currently being considered are nominated by folks who are not in my back yard. I'm all for a new power plant, I'm all for a…I like to eat, I like food on my table as long as it's done where I don't see it. So I'd like the DNR to take that into consideration that a lot of these streams are being nominated that shouldn't be nominated just to prevent future development down the road. That's my only comment. Thank you.

Dan Swann: I'm Dan Swann, I've just got a couple of comments. Rural creek was brought up several times and the concerns that we should have for this new water. The only concern I have is through your regulations. I've lived on this rural creek all my life, especially in the water. I like to go by my house everyday, it gets cleaner and cleaner every year, forty years ago this water was very dirty because of lots of swampy individual farm lots with runaway fluid. Now it's as clean as its been in fifty years and its so clean that there are large fish in this stream and they're not small minnows, these are large fish, there's a lot of food in it, not nutrients full of algae and plankton, I see no concern here other than your regulation. Thank you.

Veronica Laek: The solution I see, especially with wetland, especially the sinkholes I mentioned, they should develop the cellulose production of ethanol and that would be better as grass planned and not, I mean when it was passed here before, we didn't have the pollution, we didn't have the runoff in the sinkholes that we have now. And I think that would be a better solution than putting all of that in the cellulose grass on that land currently.